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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/696,238 10/26/00 KLITZNER

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EXAMINER

CHIANG, J

ART UNIT

PAPER NUMBER

2642

DATE MAILED:

10/24/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No. 09/696238	Applicant(s) Klitene	
Examiner J. Chiang	Group Art Unit 2642	6

--The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address--

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE **-3-** MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on **12-11-01**
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) **1-20** is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) **1-20** is/are rejected.
- ☒ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of References Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

CLAIMS

Art Rejection

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5, 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Larkin (US 3993879) in view of Scott et al. (US 4335281):

Regarding claim 1, Larkin shows a telephone system comprising:

A plurality of operating components (in 21) for transmitting outgoing signals and receiving incoming signals;

An interface (10, 22) including:

A speaker including a driver (24, see also 25) which is within an integral enclosure (col. 2, lines 46-48) and having a single opening (facing 24) for receiving a speaker sound tube (the speaker sound tube 14 which receives sound from speaker output 24);

The speaker sound tube (14) which has a first end (see 20) and a second end (15).

Larkin differs from the claimed invention in that it does not explicitly mention that the speaker is sealed.

However, Larkin does mention that the speaker is housed in a small molded plastic case (col. 2, lines 46-48). In other words, the speaker case is, in some degrees, sealed. Further, Scott, in a similar headset environment, teaches providing a speaker

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which is sealed (see 21-23, 35). Scott also teaches the speaker sound tube (27, 36) which delivers sounds to the user's ear. Hence, if it is found that the Larkin's speaker is not sealed, it would have been obvious for one skilled to modify Larkin's speaker with a sealed speaker as taught by Scott, because when microphone and speaker are closely mounted together, acoustic feedback would be created, and isolating or sealing the two elements is a commonly practice in such environment in order to have a desire acoustic response or properties (col. 2, lines 5-12).

Regarding claim 12, Larkin shows a telephone system comprising:

A plurality of operating components (in 21) for transmitting outgoing signals and receiving incoming signals;

An interface (10, 22) including:

A housing (22);

A speaker including a driver (24, see also 25) which is within an integral enclosure (col. 2, lines 46-48) and having a single opening (facing 24) for receiving a speaker sound tube (the speaker sound tube 14 which receives sound from speaker output 24);

The speaker sound tube (14) which has a first end (see 20) and a second end (15).

Larkin differs from the claimed invention in that it does not explicitly mention that the speaker is sealed.

However, Larkin does mention that the speaker is housed in a small molded plastic case (col. 2, lines 46-48). In other words, the speaker case is, in some degrees, sealed. Further, Scott, in a similar headset environment, teaches providing a speaker

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which is sealed (see 21-23, 35). Scott also teaches the speaker sound tube (27, 36) which delivers sounds to the user's ear. Hence, if it is found that the Larkin's speaker is not sealed, it would have been obvious for one skilled to modify Larkin's speaker with a sealed speaker as taught by Scott, because when microphone and speaker are closely mounted together, acoustic feedback would be created, and isolating or sealing the two elements is a commonly practice in such environment in order to have a desire acoustic response or properties (col. 2, lines 5-12).

Regarding claims 2-5, 13-15, the combination of Larkin and Scott shows:

A jack (receiving interface 22 in Larkin) which has incoming and outgoing signals;

The earpiece (15);

A microphone (23, see also 25);

A microphone sound tube (see 10, 14) having a first end (see 20) and a second end (16).

3. Claims 6, 9-11, 16, 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Larkin and Scott in view of Furuno (US 5281554).

Regarding claims 6, 9-11, 16, 19-20, the combination of Larkin shows:

The interface (10, 22 in Larkin) having the speaker and the microphone.

The combination of Larkin differs from the claimed invention in that it does not explicitly mention that the interface is a part of the telephone or the battery.

However, Furnno teaches providing an interface (see the microphone mounting) which can a part of the telephone housing (fig. 2a) or a part of a battery (fig. 2b). Further, from various mounting of the interface in various embodiments of the present application, such as the mounting of the interface in the jack, the telephone housing, the battery etc., it can be seen that there is no teaching of criticality for one mounting environment over the other. Therefore, it would have been obvious for one skilled in the art to provide Larkin's interface in the jack, the phone housing or the battery with/without the teaching of Furuno. This simply can be considered as a variation of the combination of Larkin as long as the basic concept of providing the speaker/microphone interface and their sound tubes is substantially unchanged. This can also be seen that the operation of the combination is not changed when the mounting environment is changed as shown in the present application.

4. Claims 7-8, 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Larkin and Scott in view of Milani (US 3918550).

Regarding claims 7-8, 17-18, the combination of Larkin shows the sound tube (10, 14 in Larkin),

Larkin differs from the claimed invention in that it does not have a valve or volume control.

However, Milani teaches providing a valve or volume control (21) for a sound tube.

Hence, it is commonly seen that volume control is required in sound processing because different users have different preferences when using a sound processing

device. Therefore, it would have been obvious for one skilled in the art to modify Larkin's sound tube with a valve/volume control as taught by Milani, such that to control the volume of the device in order to accommodate different users (col. 4, lines 17-23 in Milani).

ARGUMENT

5. In response to the remarks, pages 4-7, applicant mainly argues that Larkin does not have a sealed speaker driver.

The examiner disagrees with applicant's analysis on Larkin. First, Larkin's microphone and speaker (23, 24) are separately mounted in a single molded casing (22, see fig. 1). In other words, the speaker is isolated or sealed in the casing. Second, to show this sealed speaker in more details in a similar environment, Scott is cited. In fact, it is commonly seen that speaker is sealed in the headset environment, see rejection above.

6. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack Chiang whose telephone number is 703-305-4728. The examiner can normally be reached on Mon.-Fri. from 8:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Admad Matar, can be reached on (703) 305-4731. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.


Jack Chiang
Primary Examiner
Art Unit 2642